

## **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed September 9, 2004. Reconsideration and allowance of the application and pending claims are respectfully requested.

### **I. Oath or Declaration**

Examiner states that the declaration is missing from the USPTO file. In response, Applicant submits a copy of the previously filed declaration.

### **II. Specification Objection**

The specification has been objected to because, it is argued, the title is not descriptive. Applicant respectfully traverses.

The application is currently entitled "System and Method for Appliance Adaptation and Evolution". Applicant believes that this title is descriptive of the invention. Specifically, this title is consistent with Applicant's disclosure. For example, Applicant states the following on page 4, line 21 to page 5, line 1:

Referring now in more detail to the drawings, in which like numerals indicated corresponding parts throughout the several views, FIG. 1 illustrates a system 100 for appliance adaptation and evolution, and through which various software can be acquired.

As is exemplified by the above excerpt, Applicant's disclosed inventions directly pertain to systems, and methods performed by the systems, for appliance adaptation and evolution. Accordingly, it can be appreciated that the current title directly describes the Applicant's inventions. For this reason, Applicant has not amended the title.

### III. Claim Rejections - 35 U.S.C. § 102(e)

Claims 1-20 have been rejected under 35 U.S.C. § 102(e) as being anticipated by McCannon, et al. ("McCannon," U.S. Pat. No. 6,607,314). Applicant respectfully traverses this rejection.

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(e).

In the present case, not every feature of the claimed invention is represented in the McCannon reference. Applicant discusses Applicant's claims and the McCannon reference in the following.

#### A. Claims 1-8

Independent claim 1 provides as follows (emphasis added)

1. An *image capture appliance* configured for connection to a network and communication with a device connected to the network, the appliance comprising:

    a processing device configured to control operation of the image capture appliance;

    memory including *logic configured to receive software via the network that facilitates communication between the image capture appliance and the device* from a software source; and

    a network interface device with which the image capture appliance communicates with the software source.

As a first matter, Applicant notes that McCannon does not discuss image capture appliances. Instead, as is acknowledged in the Office Action, McCannon discusses receiving software with a “printer.” Given that McCannon does not state that that printer is capable of capturing images, the McCannon reference fails to anticipate claim 1.

As a further matter, Applicant notes that McCannon does not describe an image capture device that includes “logic configured to receive software via the network that facilitates communication between the image capture appliance and the device” as is required by claim 1. McCannon also fails to anticipate claim 1 for this reason.

In view of the above, McCannon fails to anticipate claim 1, and claims 2-8 which depend from claim 1. Applicant therefore requests that the rejection be withdrawn as to these claims.

#### **B. Claims 9-14**

Independent claim 9 provides as follows (emphasis added)

9. An appliance configured for direct connection to a network and communication with a device connected to the network, the appliance comprising:

    a processing device configured to control operation of the appliance;

    an *acquisition module adapted to receive software that facilitates communication between the appliance and the device from a software source*; and

    a network interface device with which the appliance communicates with the software source

*wherein the appliance is one of an image capture appliance, a personal digital assistant, and a mobile telephone.*

Regarding claim 9, McCannon does not disclose an “image capture appliance”, a “personal digital assistant”, or a “mobile telephone” that includes “an acquisition module adapted to receive software that facilitates communication between the appliance and the device from a software source”. Instead, as is noted above in relation to claim 1, McCannon instead discloses a printer. The McCannon reference fails to anticipate claim 1, and its dependents, for at least this reason. Applicant therefore requests that the rejection as to claims 9-14 be withdrawn.

### C. **Claim 15**

Independent claim 15 provides as follows (emphasis added)

15. A network storage device, comprising:
  - a processing device configured to control operation of the device;
  - memory including logic configured to receive software that facilitates communication between a digital camera and a separate network device*, and including logic configured to transmit software to the network appliance; and
  - a network interface device with which the network storage device communicates with the network appliance.

Regarding claim 15, McCannon does not disclose a device that includes “memory including logic configured to receive software that facilitates communication between a digital camera and a separate network device”. Again, as is noted above in relation to claim 1, McCannon describes a printer that receives software, not an image capture appliance such as a digital camera. The McCannon

reference therefore fails to anticipate claim 15, and Applicant therefore requests that the rejection of claim 15 be withdrawn.

#### **D. Claims 16-20**

Independent claim 16 provides as follows (emphasis added)

16. A method for enabling communications between an appliance and a separate device, *wherein the appliance is one of an image capture appliance, a personal digital assistant, and a mobile telephone*, the method comprising:

automatically receiving software with the appliance that facilitates communication between the appliance and the separate device; and

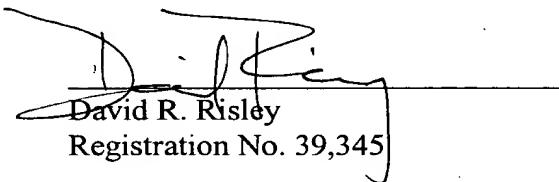
storing the software in memory of the appliance such that the appliance is adapted to communicate with the separate device.

Regarding claim 16, McCannon does not disclose a method for enabling communications between an appliance and a separate device, “wherein the appliance is one of an image capture appliance, a personal digital assistant, and a mobile telephone” as is required by that claim. The McCannon reference therefore fails to anticipate claim 16, and its dependents, for at least this reason. Applicant requests that the rejection to claims 16-20 be withdrawn.

## CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Alexandria, Virginia 22313-1450, on

12-8-04

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Signature